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OFFICE OF PETITIONS

In re Application of  
Sternberg, et al.  
Application No. 09/479,467  
Filed: January 6, 2000  
Attorney Docket No. CIT1520-1

DECISION ON PETITION

This is a decision on the petition to revive the above-identified application pursuant to 37 CFR 1.137(b), filed May 30, 2002<sup>1</sup>.

The petition is GRANTED.

The above-identified application became abandoned as a result of the petitioner's failure to timely file a proper response to the final Office action mailed July 31, 2001. On January 3, 2002, the petitioner filed an amendment, made timely by including a Certificate of Mailing dated October 26, 2001. However, by Advisory Action mailed February 1, 2002, the examiner informed the petitioner that the amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, the above-identified application became abandoned on November 1, 2001. A Notice of Abandonment was mailed on April 8, 2002.

Petitioner has satisfied the requirements for a grantable petition under 37 CFR 1.137(b). Petitioner paid the petition fee, submitted the proper reply in the form of a Continued Prosecution Application, and made a statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$460 extension of time fee submitted with the petition on May 30, 2002 was subsequent to the maximum period obtainable for reply

<sup>1</sup> Supplemented by a facsimile transmission filed July 17, 2002.

(February 1, 2002), this fee has been refunded to petitioner's Deposit Account No. 50-1355.

In addition, because petitioner only submitted \$620 for the petition to revive fee, Deposit Account No. 50-1355 has been charged \$20.<sup>2</sup>

The Revocation of Power of Attorney/Power of Attorney by Assignee, submitted with the instant petition, has been entered and made of record. Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to Technology Center 1600 for processing of the CPA.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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<sup>2</sup> Effective October 1, 2001, the small entity fee for a petition under 37 CFR 1.137(b) was raised from \$620 to \$640.